

VZCZCXRO9587
OO RUEHHH
DE RUEHML #5039/01 3540735
ZNY CCCCC ZZH
O 200735Z DEC 06
FM AMEMBASSY MANILA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 4328
INFO RUEHHH/AMCONSUL NAHA IMMEDIATE 0068
RHHMUNA/CDRUSPACOM HONOLULU HI IMMEDIATE
RUEKJCS/SECDEF WASHDC IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 02 MANILA 005039

SIPDIS

SIPDIS

E.O. 12958: DECL: 12/20/2016
TAGS: [PREL](#) [MARR](#) [CASC](#) [RP](#)
SUBJECT: MARINE CASE: LIKELY CANCELLATION OF BALIKATAN

Classified By: Ambassador Kristie A. Kenney, reasons 1.4 (b) and (d)

¶1. (C) In a private meeting with Executive Secretary Ermita on December 20, Ambassador reviewed the near-certainty that the USG would imminently decide to cancel much or perhaps all of Balikatan 07 to reflect our concern about the Philippines' lack of compliance with the terms of the Visiting Forces Agreement in light of the continued detention in a Philippine jail of Lance Corporal Daniel Smith. She noted that other military activities, including ship visits, might also be subject to cancellation. Ermita expressed regret and said that he shared the U.S. frustration that the Philippine court did not respect the clear language of the VFA or the submissions from the U.S. Embassy and Philippine Departments of Justice and Foreign Affairs expressing agreement that custody should remain with U.S. authorities until the end of all judicial procedures. He said that the Cabinet would meet to discuss this issue again later on December 20.

¶2. (C) Separately, Ambassador also briefed Armed Forces of the Philippines (AFP) Chief of Staff General Esperon on the likely cancellation of Balikatan 07 activities. Both Esperon and Ermita expressed concerns that the Philippine public could construe such a cancellation as a U.S. lack of confidence in the AFP. Ermita pointed out that the AFP (correctly) had no role in dealing with the Philippine judiciary on the Smith case and should not be penalized.

¶3. (C) Embassy does not plan to issue a press announcement on the cancellation, and recommends that Washington/PACOM also not issue a formal announcement. Our goal is to minimize the damage to the mil/mil relationship and to position ourselves quickly to resume our robust programs once the Philippine government and courts are able successfully to resolve the current issue over custody under the VFA. We know that the Philippine government, up to and including President Arroyo, as well as the entire AFP leadership, are united in backing the VFA and in wishing our bilateral military exercise and other activities to continue under the VFA as soon as possible. We believe that highlighting the cancellation would likely create unnecessary domestic political headaches for our allies in the Philippine government and AFP, while strengthening the hands of those who fundamentally oppose the VFA or simply wish to embarrass the government (in part, perhaps, with an eye on the May 2007 elections).

¶4. (SBU) There will undoubtedly be press interest once the word of the cancellation seeps out, and Embassy suggests following "if asked" press guidance:

¶Q. Did the U.S. Government cancel the Balikatan 07 exercise?
If so, why?

¶A. All U.S.-Philippine military exercises and related activities operate under the Visiting Forces Agreement, which

has advanced the security interests of our two countries well since 1999 through an active program of exercises, ship visits, civil-military activities, and humanitarian and relief operations. With the current custody issue still working its way through the Philippine judicial system, the usual protections provided to U.S. service personnel remain in doubt. Until the Philippine government and courts are able to ensure that the Philippines is in full compliance with the VFA, it would be imprudent to bring additional U.S. troops here for exercises or other related purposes.

1Q. Will this cancellation affect the activities of U.S. military already present, such as the Joint Special Operations Task Force-Philippines in Mindanao?

1A. The U.S. Government has no plans at present to curtail ongoing military activities, including JSOTF-P, but we will continue to review progress in the current custody case as we make decisions about future U.S. military activities in the Philippines.

1Q. Does the cancellation of Balikatan 07 reflect a downward trend in U.S.-Philippine relations?

1A. The U.S. Government and Philippine Government are in full accord about the value of the Visiting Forces Agreement and our extensive bilateral military cooperation. We are also in full agreement that U.S. personnel covered by the VFA involved in legal cases under Philippine jurisdiction should remain in U.S. custody until the end of all judicial proceedings, including appeals, under the terms of the VFA. Both governments hope and expect the Philippine courts to uphold this clause in the VFA. Our bilateral relationship overall remains broad and deep.

MANILA 00005039 002 OF 002

1Q. Does the U.S. Government dispute the verdict in the Smith case?

1A. We take no position on the verdict issued by a Philippine judge in a Philippine court on the legal case against Lance Corporal Smith under Philippine law. We strongly object, however, to the clear violation of the Visiting Forces Agreement reflected in the court's December 4 order to detain Lance Corporal Smith in a Philippine jail while Lance Corporal Smith's judicial proceedings continue.

Visit Embassy Manila's Classified SIPRNET website:
<http://www.state.sgov.gov/p/eap/manila/index.cfm>

You can also access this site through the State Department's
Classified SIPRNET website:
<http://www.state.sgov.gov/>
KENNEY